

UNITED STATES CIVIL SERVICE COMMISSION
WASHINGTON 25, D. C.

June 27, 1956
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DEPARTMENTAL CIRCULAR NO. 869

TO HEADS OF AGENCIES AND INDEPENDENT ESTABLISHMENTS

SUBJECT: ESTABLISHMENT OF A NEW REEMPLOYMENT RIGHTS PROGRAM
(The following policies and instructions supersede any conflicting instructions in the Federal Personnel Manual on August 1, 1956)

A. Purpose. Departmental Circular 870 announces termination of the system of granting reemployment rights incident to "defense transfers," effective July 31, 1956. A new reemployment rights program has been established by revision of Part 10 of the Commission's regulations which will be more nearly adapted to current needs and circumstances. This Circular provides instructions for operation of the new program, effective on August 1, 1956. Any conflicting instructions in the Federal Personnel Manual on that date are superseded by the following material.

B. Nature of new program. The new program provides for reemployment rights to be granted on a selective and temporary basis to the extent necessary to staff essential activities during critical or emergency conditions. Reemployment rights will not automatically attach to all movements to such activities, but may be offered as a recruiting inducement when necessary services cannot be otherwise obtained.

C. Letters of Authority. The new Program provides that reemployment rights may be offered only when a Letter of Authority has been issued covering the organization and the specific position(s) to be filled. Letters of Authority may be obtained from the regional or central office of the Commission having recruiting jurisdiction over the positions involved, upon a showing that the positions to be filled (1) are related to emergency situations for which usual recruiting methods are inadequate and that offers of reemployment rights will constitute a significant and reasonable aid in meeting the emergency situation, (2) are a part of a specific program immediately essential to the national interest, and (3) are essential to the functioning of such a program. Thus, reemployment rights are no longer limited to purely defense or military activities, and will ordinarily be reserved to the essential staffing of critical functions which have a direct bearing on a program of national importance.

D. Eligibility for reemployment rights. Reemployment rights may be offered only in conjunction with inter-agency movement of employees serving under career or career-conditional appointment in the competitive service, or of non-temporary employees in the excepted service. The employees must further possess qualifications and satisfy eligibility requirements for the positions to be filled. Reemployment rights will not be granted to any employee who (1) is serving a trial or probationary period, (2) is serving in

a position obligated for the reemployment of some other person who has re-employment rights, (3) is serving with reemployment rights granted under a Letter of Authority, (4) has received notice of involuntary separation, or (5) has submitted a resignation.

E. Negotiating for reemployment rights. Upon (1) transfer under Section 2.501(b) of the regulations to another competitive position, or (2) movement from an excepted to a competitive position by reinstatement under Section 2.401 without break in service, or (3) movement from a competitive or an excepted position to another excepted position by nontemporary excepted appointment without break in service, reemployment rights may be offered if such movement is to be made to a position covered by a letter of Authority. The hiring agency must notify the losing agency at least 10 work days prior to the effective date, citing the Letter of Authority. The losing agency must submit any appeal within 5 work days stating the grounds upon which it believes reemployment rights should be withheld. At the same time an appeal is sent to the Commission (with a copy of the hiring agency's notice), a copy of the appeal should also be sent to the prospective hiring agency. The hiring agency must suspend action to effect the movement with reemployment rights until the Commission has notified both agencies of its decision on the appeal.

F. Processing personnel actions. Personnel actions providing reemployment rights under this new program will be prepared showing the conventional nature of action and authority for transfer, reinstatement, or excepted appointment. In addition, a statement will be entered under remarks substantially as follows: "Reemployment rights for 2 years to (agency) granted under CS Reg. 10 and Letter of Authority dated _____ from (CS office)."

G. Duration and exercise of reemployment rights. (1) Reemployment rights granted under Letters of Authority will automatically expire after two years, unless sooner exercised or forfeited as described below. However, for employees who serve outside the continental limits of the U. S., reemployment rights will extend for an additional period of 3 months to permit travel.

(2) The employee may voluntarily apply to his original agency at any time within the two year period to exercise his reemployment rights, provided he has written consent of his current agency or has received a notice of demotion or separation. The current employing agency will immediately notify the agency responsible for reemployment in any instance where consent for premature exercise of reemployment rights is granted. He forfeits his reemployment rights if he resigns without the consent of his current agency, or if he has consent but does not apply for reemployment within 30 days after separation, or if he does not apply to his original agency for reemployment within 30 days before the expiration of his reemployment rights, or within 30 days of notice of involuntary separation, or at least 30 days prior to his scheduled entry upon active military duty. The employee who exercises his reemployment rights before he is separated or furloughed for active military duty will therefore be eligible for return to his original agency after military duty in accordance with Part 35 of the regulations.

H. Information For employees with reemployment rights. The agency to which an absent employee has reemployment rights has the responsibility to safeguard the interests of the employee who has moved to another agency where he can better serve the national interest. However, this consideration will not extend to the point of "obligating" a new or additional position. If an agency makes personnel determinations which may have a marked adverse effect on his reemployment situation, it should promptly inform the person involved. Such information may have an influence on his decision to exercise his reemployment rights.

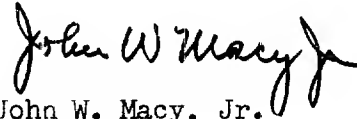
I. Obligated positions. The former term "military and defense transfer vacancy" is changed to "obligated position." Such positions are those against which reemployment rights are outstanding because of an individual's separation or furlough for active military duty with potential statutory reemployment rights, or because of reemployment rights granted under the new program described above. Obligated positions may not be filled on a permanent basis except as provided in Section 2.503 of the regulations. Assignment to such positions may be made by competitive or non-competitive methods (including transfer) but the incumbent will remain in Group II for reduction in force purposes until the former incumbent's right to reemployment is satisfied or forfeited.

J. Effecting the reemployment. The employee is entitled to reemployment within 30 days of his application by the agency he left with reemployment rights, in a position in the same occupational field, at the same grade or level, and in the same geographical area as his latest position in that agency, provided he was not separated for cause such as would reflect upon his suitability, and provided that if his reemployment would cause the separation or demotion of another employee, the retention preference regulations shall be applied to determine to what, if any, position he is entitled. The reemploying agency may reemploy the employee in a position of higher grade than that to which he is entitled, but not if such reemployment would cause the displacement of another employee. The reemployment will be made by transfer, reinstatement, or excepted appointment, as appropriate.

K. Employee appeals to the Commission. Any employee who has been denied reemployment under Part 10 of the Regulations must be notified in writing that he may appeal to the Commission within 10 days. This time may be extended if circumstances beyond his control prevent him from appealing within this time limit. Final decision of his right to reemployment will be made by the Commission.

L. Inquiries. (1) As soon as practicable, this departmental circular will be superseded by revised Federal Personnel Manual material. Until then, it is believed that this departmental circular will furnish sufficient guide lines for operations under the new program.

(2) Inquiries regarding this circular should be made to the Regulations and Instructions Division, Bureau of Programs and Standards, Code 171, Ext. 3276, or to the appropriate regional office of the Commission.



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Executive Director

Departmental Circulars No. 861, 862, 863, 864, 865, 866, 867, and 868 were limited to Heads of agencies only.